

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION**

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED
2012 JUN 13 AM 11:20
DEPUTY CLERK *ykr*

JOSEPH K. HARRIS,
Plaintiff,

ORIGINAL

3-12CV-1833K

v.

Civil Action No: _____

NCO FINANCIAL SYSTEMS, INC.,
Defendant.

COMPLAINT

NOW COMES the Plaintiff, JOSEPH K. HARRIS, by and through himself and
for his Complaint against the Defendant, NCO FINANCIAL SYSTEMS, INC.,
Plaintiff states as follows:

PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Telephone Consumer Protection Act (hereinafter, "TCPA"), 47 U.S.C. section 227 *et seq.*, the Fair Debt Collection Practices Act (hereinafter, "FDCPA"), 15 U.S.C. section 1692 *et seq.*, which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION & VENUE

2. Jurisdiction arises under the FDCPA, and TCPA, pursuant to 28 U.S.C. sections 1331 and 28 U.S.C. section 1337.

3. Venue is proper in this district pursuant to 28 U.S.C. section 1391(b).

PARTIES

4. JOSEPH K. HARRIS, (hereinafter, "Plaintiff"), is an individual who was at all relevant times residing in the county of Dallas, Texas.
5. At all relevant times, Plaintiff was a "consumer" as the term is defined by 15 U.S.C. section 1692a(3).
6. NCO FINANCIAL SYSTEMS, INC., (hereinafter, "NCO") is a business entity engaged in the collection of debt within the State of Texas. Defendant is located on 507 Prudential Road, Horsham, PA. 19044, whose primary business is debt collection from consumers.
7. At all relevant times, Defendant acted as a "debt collector" as that term is defined by 15 U.S.C. section 1692a(6).

ALLEGATIONS OF FACT

8. Plaintiff has received numerous phone calls from Defendant to his cellular telephone seeking to collect an alleged debt.
9. Plaintiff has documented at least 20 phone calls from the Defendant throughout the months of April and May of 2012.
10. Plaintiff is not in privity with Defendant, and does not owe Defendant any money.

11. Plaintiff has never provided his phone number to Defendant or given his express consent to be called, whether on his own or on behalf of any third party.
12. The calls Plaintiff received were made using equipment that had the capacity to store or produce telephone numbers to be called, using a random or sequential number generator, and to dial such numbers.
13. Defendant's calls utilized interactive voice recognition technology, also known as a predictive dialer, in which a machine places calls, and when a consumer answers the phone there is a noticeable pause prior to being connected to a live representative of Defendant.
14. This technology, upon information and belief, dials several numbers simultaneously and connects the call only to those who answer first.
15. The most egregious types of these calls are placed to those consumers who in fact have no debt whatsoever owed to Defendant.
16. Plaintiff answered the initial phone call on or about April 13th, 2012. The representative from ("NCO") asked Plaintiff his name, and told Plaintiff he was calling in reference to an alleged debt.
17. Plaintiff told the representative that he had no knowledge of the alleged debt, and stop repeatedly calling him on his cell phone.

18. The representative from (“NCO”) responded in aggravation by saying he will see me (“Plaintiff”) in Court.
19. Afterwards, Plaintiff received numerous automated prerecorded messages on his cell phone stating, “This is an important message from NCO Financial Systems, a debt collection company. This is an attempt to collect a debt, and any information obtained will be used for that purpose. Please return the call to 1-800-709-8625, again that’s 1-800-709-8625.”
20. Plaintiff never consented to, requested, or otherwise desired or permitted, calls from Defendant for the purpose of debt collection or any other purpose.

COUNT I

VIOLATION OF THE (“TCPA”), 47 U.S.C. SECTION 227, ET SEQ.

21. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
22. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 8th, 2012.
23. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.

24. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
25. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.
26. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT I

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
28. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a

telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.”

29. As a result of Defendant’s illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT II

VIOLATION OF THE (“TCPA”), 47 U.S.C. SECTION 227, ET SEQ.

30. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
31. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 10th, 2012.
32. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
33. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant’s equipment qualifies as a predictive dialer because it is equipment, combining software and

hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

34. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.
35. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT II

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

36. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
37. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

38. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT III

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

39. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
40. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 14th, 2012.
41. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
42. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

43. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.
44. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT III

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

45. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
46. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
47. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT IV

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

48. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
49. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 17th, 2012.
50. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
51. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
52. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

53. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT IV

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

54. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
55. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
56. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT V

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

57. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
58. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 18th, 2012.
59. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
60. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
61. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

62. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT V

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

63. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
64. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
65. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT VI

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

66. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
67. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 22th, 2012.
68. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
69. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
70. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

71. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT VI

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

72. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
73. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
74. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNTVII

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

75. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
76. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 23rd, 2012.
77. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
78. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
79. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

80. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT VII

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

81. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
82. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
83. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT VIII

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

84. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
85. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 24th, 2012.
86. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
87. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
88. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

89. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT VIII

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

90. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

91. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

92. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT VIII

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

93. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
94. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 25th, 2012.
95. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.
96. Defendant utilized a predictive dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.
97. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

98. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNTVIII

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

99. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

100. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

101. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT X

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

102. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

103. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 29th, 2012.

104. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.

105. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

106. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

111. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

112. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on May 30th, 2012.

113. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.

114. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

115. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

116. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT XI

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

117. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
118. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
119. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNTXII

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

120. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

121. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on June 5th, 2012.

122. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.

123. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

124. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

125. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT XII

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

126. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

127. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

128. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

COUNT XIII

VIOLATION OF THE ("TCPA"), 47 U.S.C. SECTION 227, ET SEQ.

129. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

130. Without prior consent, the Defendant contacted the Plaintiff by means of automatic telephone calls or, prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. section 227(b)(A)(iii) on June 7th, 2012.

131. The phone call was made to Plaintiff without the number being provided to Defendant or any other entity in connection with any debt, and without the consent of Plaintiff.

132. Defendant utilized a predicative dialer to place numerous phone calls to Plaintiff and without human intervention. Defendant's equipment qualifies as a predictive dialer because it is equipment, combining software and hardware aspects, that has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers.

133. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 227(b)(3)(B), are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such Act.

134. Should the Court determine that Defendant's misconduct was willful and knowing, the Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff.

COUNT XIII

VIOLATION OF THE ("FDCPA"), 15 U.S.C. SECTION 1692d(5)

135. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
136. Defendant's aforementioned conduct violated the FDCPA 15 U.S.C. section 1692d(5) as this provision specifically forbids a collector from "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."
137. As a result of Defendant's illegal conduct, Plaintiff suffered actual damages in the form of continued unsolicited calls on his cellular phone, under section 1692k, are entitled to \$1,000 per statutory violation.

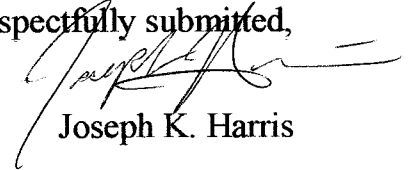
PRAYER OF RELIEF

WHEREFORE, Plaintiff, Joseph K. Harris, prays the following relief:

- a) Statutory damages pursuant to 47 U.S.C. section 227(b)(3)(B) & (C);

- b) Statutory damages pursuant to 15 U.S.C. section 1689k;
- c) Actual damages from the Defendant for all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent TCPA, and FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;
- d) Such other and further relief as may be just and proper.

Respectfully submitted,



Joseph K. Harris

311 Industrial Blvd. Apt 295

Eules, Texas 76040

Jkharris1983@hotmail.com

(817) 217-2629

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the federal court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I. (a) PLAINTIFFS

JOSEPH K. HARRIS

DEFENDANTS

NCO FINANCIAL SYSTEMS INC.

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

(b) County of Residence of First Listed Plaintiff DALLAS

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant MONTGOMERY

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

8-12CV-1833K

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 PTF ☐ 1 DEF
Citizen of Another State ☐ 2 ☐ 2
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
Incorporated or Principal Place of Business In This State ☐ 4 PTF ☒ 4 DEF
Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 USC 227

Brief description of cause:

NUMEROUS VIOLATIONS OF THE TCPA, FDCPA, DTCPA, & THE DTPA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ 18,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) (See instructions)

PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



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Country of Destination/Pays de destination:



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